

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

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WOLVERINE WORLD WIDE, INC., a Delaware  
corporation, and HUSH PUPPIES CANADA  
FOOTWEAR, LTD., a Quebec corporation,

Plaintiffs,

v

WOLVERINE CANADA, INC., a Canadian  
corporation, RICHARD HUNT, an individual,  
MIKE DYON, an individual, and PAUL DYON, an  
individual.

Defendants.

Case No: 1:07-cv-00391

**Hon. Paul L. Maloney**

**MOTION TO FILE A SUR-REPLY IN  
OPPOSITION TO DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

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Plaintiff Wolverine World Wide, Inc. (“Wolverine”) seeks leave to file this sur-reply in opposition to Defendants’ motion for summary judgment pursuant to Local Rule 7.2. Wolverine contacted Defendants’ counsel, who consented to this filing. In their pleadings, Defendants erroneously assert that Wolverine untimely filed both its response opposing summary judgment (filed 31 days after service) and reply brief in support of summary judgment (filed 17 days after service). Local Rule 7.2 (c) covers dispositive motions and provides that responses to motions be filed 28 days after service. Replies are to be filed 14 days after service. In addition, Local Rule 5.7 (i)(v) provides for an extra 3 days when service is made electronically:

Electronic service under this rule is complete upon transmission. The additional three (3) days to do an act or take a proceeding after service of a document applies when service is made electronically, by virtue of Fed. R. Civ. P. 6(d).

Local Rule 5.7 (i)(v) is consistent with the Federal Rules. Fed. R. Civ. P. 6(d) gives parties an extra 3 days to respond based on certain types of service, including electronic service:

When a party may or must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

*See* Fed. R. Civ. P. 5(b)(2)(E) (stating that service may be made electronically).

Here, there is no dispute that Wolverine was served with both Defendants’ motion and response brief electronically. Thus, responsive pleadings were due 31 days and 17 days later, respectively. Wolverine’s response brief and reply brief were, therefore, timely filed.

Dated: May 28, 2009

/s/ Scott R. Carvo  
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